

Appl. No.: 10/706,832
Docket No.: DB000972-002
Amdt. Dated: 13 April 2005
Reply to Office action of 13 January 2005

REMARKS

Entry of this amendment is respectfully requested on the grounds that it places the claims in better condition for an appeal and, in the case of claims 1 and 3, reflects language agreed to in a related case. Also, most of the rejections in the current Office action are new and the applicants have not had an opportunity to respond to these new grounds of rejection.

In response to the various rejections of independent claims 1 and 3, those claims have been amended to recite a memory device carrying instructions which, when executed, perform a method comprising displaying on a numeric, shelf-level display a number that is the number of different variety of items which are carried by the shelf and which are on the list of items to be located. Support for the amendment may be found, for example, at paragraph [0036]. As stated in paragraph [0036], if one item is located on that shelf, the alpha numeric display 48 flashes the number "one". If two items are located, the display flashes the number "two", etc. Thus, if a healthcare worker is looking for Tylenol and ibuprofen, and both of those items are located on the same shelf, the shelf-level display associated with that shelf will display the number two, indicating that two different items to be located are carried by the shelf associated with the shelf-level display.

Independent claims 4 and 6 have been amended to recite that "substantive information" is displayed for the identified item. Support for the amendment may be found, for example, at paragraph [0041]. Substantive information such as drug interaction information, contraindications, typical dosing information, etc. is distinct from what is taught in the prior art, i.e., providing information identifying a medication's location or other information such as cabinet inventories, patient vital signs, etc.

Each of the grounds of rejection will now be discussed.

Turning first to paragraph 4 of the Office action, independent claims 1 and 3 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,636,780 to Haitin et al ("Haitin"). The portion of Haitin cited by the Examiner does not stand for the

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proposition of displaying on a numeric, shelf-level display a number that is the number of different variety of items which are carried by the shelf associated with the shelf-level display and which are on a list of items to be located.

In paragraph 5 of the Office action, independent claims 4 and 6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Weinberger, U.S. patent no. 5,408,443. It is respectfully submitted that the apparatus of Weinberger is directed to a patient specific device. As stated in column 2, lines 19-28:

None of the prior art, however, provides a programmable medicine dispenser in which a separable data storage unit may be programmed by a physician or a pharmacist to provide specific instructions with respect to each drug to be taken and which also requires the patient to properly confirm that he has followed the instructions or which releases a drawer containing medications and provides a visual indication of the location and medication to be taken.

As stated in the Summary of the Invention, beginning at line 35:

Another object of the invention is to provide a programmable medicine-dispensing system which is appropriate for a patient who is not under immediate supervision.

Applicants have amended independent claims 4 and 6 to recite a "non-patient specific dispensing cabinet." It is respectfully submitted that no teaching or suggestion has been identified in Weinberger which renders obvious the subject matter now being claimed in claims 4 and 6.

Turning now to paragraph 6 of the Office action, independent claims 1 and 3 stand rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 5,564,803 to McDonald et al ("McDonald"). The Office has not identified any teaching in McDonald that discloses or suggests displaying the number of different variety of items in combination with the other elements of claims 1 and 3.

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In paragraph 7 of the Office action, independent claims 1 and 3 stand rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 5,330,062 to Murphee. It is respectfully submitted that the cited portion of Murphee which refers to displaying "a quantity of items to be picked" (col. 2, lines 41 -42), refers to providing instructions regarding how many items are to be picked, e.g. indicating the number 4 if four ibuprofen are to be picked. In the invention set forth in claims 1 and 3, the number displayed in this example would be 1, indicating that one variety of item (ibuprofen) is located on the shelf.

Turning now to paragraph 8 of the Office action, independent claims 1 and 3 stand rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 4,783,740 to Ishaziwa. The Office has not identified any teaching or suggestion in Ishaziwa that discloses or suggests displaying the number of different variety of items in combination with the other elements of those claims.

Turning now to paragraph 10 of the Office action, independent claims 1 and 3 stand rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 6,151,536 to Arnold et al. ("Arnold"). In Arnold, there is no shelf-level numeric display nor is there any display that is operative to display a number that is the number of different variety of items to be located which are carried by the shelf associated with the display. For example, as discussed at column 9, beginning at line 26, "adjacent each of item buttons 86 is a visual indicator 88 to assist the caregiver in locating a particular item. Alternatively, item buttons 86 may be configured to illuminate, thereby eliminating the need for visual indicators 88." Arnold contains no teaching or suggestion of the subject matter claimed in claims 1 and 3.

In paragraph 11 of the Office action, independent claims 1, 3, 4 and 6 have been rejected under 35 U.S.C. §103(a) as being obvious in view of Haitin and Weinberger. The deficiencies of those two references have been individually discussed above. It is not seen how the combination of the teachings of these two references makes up for the deficiencies noted above. More specifically, and with reference to claims 4 and 6, it is respectfully submitted that the type of information disclosed by Haitin, for example, in the paragraph bridging column 6 and

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7, is patient specific or cabinet specific information such as current inventories, patient vital signs, etc. There is no disclosure of providing in a query mode substantive information about a medication such as drug interaction, contraindications, typical dosing information, or other pharmaceutical information.

In paragraph 12 of the Office action, independent claims 1, 3, 4 and 6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,151,536 to Arnold et al ("Arnold") and Weinberger. The deficiencies of Weinberger have been discussed above. Independent claims 4 and 6 have been amended to recite that "substantive information" is displayed for the identified item. That change distinguishes over the illumination of an indicator adjacent an item. That change is also made to distinguish over Arnold which discloses in column 7, next to last paragraph, that a written description of the location of medication is provided. In contrast, in the present invention, as set forth in paragraph [0041] and claims 4 and 6, there are numerous types of information which can be provided in the context of medications, such as drug interaction information, contraindications, typical dosing information, and other information dealing with substantive aspects of the medication, as opposed to its mere location.

In paragraph 13 of the Office action, independent claims 1, 3, 4 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,880,443 to McDonald et al ("McDonald '443") and U.S. Patent Publication 2002/0027507 A1 to Yarin et al ("Yarin"). With respect to claims 1 and 3, neither McDonald '443 nor Yarin discloses or suggests indicating on a numeric display positioned on a shelf within a cabinet the number of different variety of items on the list held by that shelf. Yarin, in paragraph 52, teaches that the number of pills (dosage amount) to be taken can be indicated. That is, of course, different from indicating the number of different variety of pills held by a shelf within a cabinet.

With respect to claims 4 and 6, it is respectfully submitted that the teachings of Yarin cannot be combined with the teachings of McDonald '443. Yarin discloses a smart tray intended to be used at the point of administration i.e. administering medications to the patient. In contrast, the apparatus of McDonald '443 is more suited for a central pharmacy location wherein

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orders are filled for patients. Furthermore, even if the teachings could be combined, Yarin is directed to a patient's specific device.

In paragraph 14 of the Office action, independent claims 1, 3, 4 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Arnold in view of Yarin. The deficiencies of both Arnold and Yarin had been individually discussed above. It is not seen how the combination of the teachings of these two references makes up for the deficiencies noted above.

In view of the amendments made to the independent claims 1, 3, 4 and 6, and the comments above noting the deficiencies of the various references, it is respectfully submitted that all claims are now in condition for allowance. Accordingly, a notice of allowance for claims 1-11 is respectfully requested. If the examiner is of the opinion that the instant application is in condition for disposition other than through allowance, the examiner is respectfully requested to contact applicants' attorney at the telephone number listed below.

Respectfully submitted,



Edward L. Pencoske
Reg. No. 29,688
Thorp Reed & Armstrong LLP
One Oxford Centre, 14th Floor
Pittsburgh, PA 15219-1425
(412) 394-7789

Attorneys for Applicants